

[REDACTED]

CERTIFIED MAIL

[REDACTED]

[REDACTED]

[REDACTED]

JUN 25 1984

Gentlemen:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

The information submitted discloses that you were incorporated under the laws of the State of [REDACTED] on [REDACTED]. The primary purpose for which you were formed is to promote, protect and preserve the common interests of residents and lot owners.

Your activities include providing for the upkeep of the lakes, beach area, roads, and provide for snow removal, and trash collection for the residents. You are also involved on behalf of the residents in a legal dispute with the developers.

Income is from members dues and assessments. Expenditures are for the activities listed above.

Members of your association are either residents or property owners in the community known as [REDACTED]. There are currently [REDACTED] members.

You state that your common areas and facilities are not open for the use and enjoyment of the general public.

Section 501(c)(4) of the Code provides for the recognition of exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(1) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this

[REDACTED] 06/25/84

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]	[REDACTED]				
Surname		[REDACTED]	[REDACTED]				
Date		6/25/84	6.25.84				

section is one which is operated for the purpose of bringing about civic betterments and social improvements.

Revenue Ruling 69-280, published in Internal Revenue Cumulative Bulletin 1969-1, page 152 holds that a nonprofit corporation formed for the purpose of providing specified services for the homeowners in a housing development is not exempt as a 501(c)(4) social welfare organization. A purchaser of a unit in the housing development was required to become a member. The organization was supported entirely by annual dues charged members. It was determined that the organization was performing services that its members would otherwise have to provide for themselves and that the organization was operated primarily for the private benefit of members.

Revenue Ruling 72-102, 1972-1 C.B., page 149, states that a nonprofit organization formed to preserve the appearance of a housing development and to maintain streets, sidewalks and common areas for use of the residents is exempt under Section 501(c)(4) of the Code. Membership is required of all owners of real property in the development and assessments are levied to support the organization's activities. It was held that by maintaining the property normally maintained by a municipal government, the organizations served the common good and general welfare of the people of the community.

Revenue Ruling 74-99, 1974-1 C.B., page 131, modified Revenue Ruling 72-102 by stating guidelines under which a homeowners association could qualify for exemption under Section 501(c)(4) of the Code. These guidelines are:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as a governmental unit;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the general public.

This ruling states that a community, within the meaning of Section 501(c)(4) of the Code and the regulations, "... is not simply an aggregation of homeowners bound together in a structured unit formed as an integral part of a plan for the development of a real estate subdivision and the sale and purchase of homes therein."

[REDACTED]

Revenue Ruling 74-99 states that Revenue Ruling 72-102 "... was intended only to approve ownership and maintenance by a homeowners' association of such areas as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public, as distinguished from controlled use or access restricted to the members of the homeowners' association..."

Your common areas are not open to the general public. Your involvement in the dispute also serves the private interests of your members, rather than the public.

Therefore, you do not qualify for exemption from Federal income tax as an organization described in Section 501(c)(4) of the Code.

Until you have established an exempt status, you are not relieved of the requirements for filing Federal income tax returns.

Your attention is called to Section 528 of the Internal Revenue Code which was added by the Tax Reform Act of 1976. This section provides that, in certain circumstances, a homeowners' association may elect not to be taxed on its "exempt function income" which includes membership dues, fees or assessments from owners of real property. The election is made by filing Form 1120H, if you determine that your organization qualifies under Section 528.

If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office of Appeals. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office or, if you request, at any mutually convenient District office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[REDACTED]
District Director